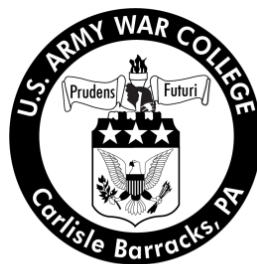


## For-Profit Colleges and the GI Bill: A Worthwhile Investment?

by

Colonel F. Dean Raab  
United States Army



United States Army War College  
Class of 2012

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A WORTHWHILE INVESTMENT?**

by

Colonel F. Dean Raab  
United States Army

Maame Ewusi-Mensah Frimpong  
Faculty Adviser

This CRP is submitted in partial fulfillment of the requirements of the Senior Service College fellowship.

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U.S. Army War College  
CARLISLE BARRACKS, PENNSYLVANIA 17013



## **ABSTRACT**

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The proliferation of for-profit colleges and questions about their recruiting tactics and program quality has caused concern among educators and legislators for quite some time. This issue has also been a concern within military and veteran communities because of the number of servicemembers and veterans who choose to use their tuition assistance or GI Bill benefits at for-profit colleges. The enactment of the Post 9/11 GI Bill has made this a more urgent problem for two reasons. First, a larger number of servicemembers and veterans are using these benefits at for-profit colleges. Second, as for-profit colleges seek to stay within the mandates of the 90/10 rule, which requires that they receive no less than ten percent of their revenue from federal Title IV funding sources, they are aggressively targeting servicemembers and veterans eligible for GI Bill benefits because those benefits do not count as 'federal' benefits for purposes of the 90/10 calculation.





## FOR PROFIT COLLEGES AND THE GI BILL: A WORTHWHILE INVESTMENT?

Utilize Fear, Uncertainty, and Doubt (FUD) in the sales process. The technique is especially effective when prospects introduce the “need” to examine other online schools.<sup>1</sup>

“There is such pressure to simply enroll more vets—we knew that most of them would drop out after the first session. Instead of helping people, too often I felt like we were almost tricking them.”<sup>2</sup>

The Post 9/11 GI Bill is a great benefit for servicemembers, and for the first time ever, their spouses and children. This bill was enacted by the 110th Congress in June 2008 and became effective in August 2009.<sup>3</sup> The Post 9/11 GI Bill is more generous than its predecessor, the Montgomery GI Bill. In addition to allowing for more generous benefits, which include payment of a living allowance that makes it more practical for a servicemember to attend school in a full-time capacity, the bill now allows benefits to be passed to spouses and children.<sup>4</sup> The Post 9/11 GI Bill pays an annual stipend equal to the in-state tuition rate at a state school, capped annually at \$17,500.00. It also authorizes a monthly housing allowance, a payment of up to \$1000.00 for books and supplies. Under the voluntary Yellow Ribbon Program, many private schools with tuition in excess of \$17,500.00 have agreed to contribute additional funds toward tuition for veterans using the GI Bill, and the VA is authorized to match those contributions. This is a very valuable benefit for veterans. Since its inception, demand for Post-9/11 GI Bill benefits has greatly exceeded demand for the previous GI Bill.<sup>5</sup>

In the statutory preface to the Post 9/11 GI Bill, the Congress found that the existing Montgomery GI Bill was outdated, and that “[i]t is in the national interest for the United States to provide veterans who serve on active duty in the Armed Forces after September 11, 2001, with enhanced educational assistance benefits that are worthy of such service and are commensurate with the educational assistance benefits provided by a grateful Nation to veterans of World War II.” However, two years after the enactment of the Post 9/11 GI Bill, the US Senate Health, Education, Labor and Pensions (HELP) Committee examined the relationship between the growth of military educational benefits and ballooning enrollment and revenue at the nation’s for-profit education companies, and issued a report that concluded that “Congress may have unintentionally subjected this new generation of veterans to the worst excesses of the for-profit industry: manipulative and misleading marketing campaigns, educational programs far more expensive than comparable public or non-profit programs, and a lack of needed services.”<sup>6</sup> The report examined data provided by 30 for-profit education companies, and noted that in numerous areas, to include program completion rates, salaries, student loan debt, and student loan default rates, students at for profit educational institutions lagged behind students at non-profit educational institutions. Given the increasing number of veterans choosing to use their GI Bill benefits at for-profit educational institutions, and the rising share of federal educational benefits being paid to for-profit educational institutions, the Senate HELP Committee report concluded that “many veterans may not see the educational results that Congress envisioned” and urged the “Congress, Department of Veterans Affairs, and Department of Defense to take action to ensure that servicemembers and veterans attending for-profit schools are

in fact getting the promised educational benefits in exchange for this significant federal investment.”<sup>7</sup> While the Post 9/11 GI Bill is not the sole cause of the growth of the for-profit educational sector, the growth of this sector, its aggressive business model, the federal requirement that for-profit institutions receive at least 10 percent of their revenue from non-Title IV sources,<sup>8</sup> coupled with the growth of federal military benefits (non-Title IV sources, such as the GI Bill and Department of Defense Tuition Assistance program for active duty servicemembers) has created the ‘perfect storm’ of conditions that warrant the Senate’s cautionary warning.

This paper will examine the factual issues behind the Senate HELP Committee’s call to action, address other areas of concern regarding servicemember use of the Post 9/11 GI Bill benefit, address the recent Executive Order establishing Principles of Excellence for Educational Institutions receiving federal military benefits, and finally will propose concrete steps that can be taken to improve oversight of this significant national investment in educational benefits for servicemembers and veterans.

Who are the for-profits? The for-profit educational industry has grown tremendously since 1970. From 1970 to 2009, fall enrollment in for-profit degree granting institutions grew by more than 100-fold from 18,333 in 1970 to 1.85 million in 2009.<sup>9</sup> By comparison, total fall enrollment in all degree-granting institutions increased 2.4 fold from 8.58 million in 1970 to 20.43 million in 2009.<sup>10</sup> Thus, for-profit enrollment increased from 0.2 percent to 9.1 percent of total enrollment in all degree-granting schools from 1970 to 2009.<sup>11</sup> The number of servicemembers, veterans, and military family members using their GI Bill benefits to attend for-profit schools has likewise risen since the inception of the Post 9/11 GI Bill. For example, the 30 schools profiled by the

Senate HELP Committee's December 2010 report reported 23,766 students receiving military benefits of any type in 2006, but 109,167 students receiving benefits in 2009, and 100,702 students through the first half of 2010.<sup>12</sup>

As for profit educational student enrollments increase, so does their revenue. Most of the for-profit educational institutions receiving this dramatic increase in student enrollment are controlled by large publicly-traded corporations, and therefore this business model is profit-driven. While the number of students enrolled in for profit institutions is growing, the percentage of those students who are servicemembers or veterans is also increasing significantly, and the amount of revenue these institutions receive from federal funds is also growing. A recent study of the for-profit post-secondary school sector stated that "federal financial aid is the lifeblood of for-profit education."<sup>13</sup> For example, for the 2008-2009 academic year, Federal grants and loans received under Title IV of the Higher Education Act accounted for 73.7 percent of the revenues of Title IV-eligible private for-profit education institutions.<sup>14</sup> Many of the largest national chains, such as the University of Phoenix and Kaplan University, received more than 80 percent of their revenues from such funds during this time period.<sup>15</sup> In 2009, Kaplan University received 87 percent of its revenue from federal student aid (Title IV) funds.<sup>16</sup> These numbers notably do not include non-Title IV funds such as the Post-9/11 GI Bill, which is funded and administered by the Department of Veterans Affairs, or Tuition Assistance program, which is funded and administered by the Department of Defense. When those numbers are considered, many for-profit schools receive a greater amount of total revenue from federal funds when the non-Title IV entitlements are considered. This issue will be discussed below.

The rising enrollment and concomitant federal investment in for-profit education is troubling because for-profit schools charge much higher tuition than their public non-profit counterparts, yet a smaller amount of the for-profit tuition dollar is used for actual instruction when compared to non-profit educational institutions. This raises a legitimate question: are student servicemembers and veterans getting their money's worth at for-profit institutions? There are several factors that must be considered when addressing this question: Cost, graduation rates, loan repayment rates, each as indicators of the value of the education to employers and students. Each will be discussed below.

Cost. In a recent report on for-profit colleges, the Government Accountability Office found that “most certificate or associate’s degree programs at the for-profit colleges we tested cost more than similar degrees at public or private nonprofit colleges.”<sup>17</sup> While it is well established that for-profit educational institutions cost more than their non-profit counterparts, the amount of money that for-profit schools spend on instruction, per student, is often much less than non-profit institutions. For-profit institutions spend significantly more money on administration, recruiting, and marketing. In addition, a large percentage of for-profit educational institution revenue goes toward corporate profits and executive pay.<sup>18</sup> For example, Bridgepoint Education, a large for-profit educational institution, spent 30 percent of its revenue on marketing, 30 percent on profit, and 40 percent on administration, which includes bad debt expenses, faculty, instruction, student services, and executive compensation.<sup>19</sup> Broken down, while student enrollment increased from 12,623 to 77,892 from 2001-2010, the number of financial aid advisors, student service advisors, and career services and placement

employees either remained the same or increased by less than 100 employees. However, the number of recruiters during this same time period more than quadrupled, from approximately 400 to 1703.<sup>20</sup> What this means is that the amount spent per student on instruction is generally much less at a for-profit educational institution than a non-profit school. Using Bridgepoint as an example again, in 2009 that school spent \$700/student on instruction, \$2714/student on recruiting, \$495/student to cure delinquent student debt, and \$1522/student on corporate profit.<sup>21</sup> That same year, the University of Iowa spent approximately \$12,000/student on instruction, Iowa State University spent approximately \$8,000/student on instruction, and Kirkwood Community College spent approximately \$4,000/student on instruction. Thus, while the tuition at for-profit colleges is higher than at non-profit state schools or community colleges, far less of that tuition money goes toward the instructional program.

Graduation Rates. The Senate HELP Committee studied 16 of the largest for-profit schools and found that 57 percent of students who enrolled during the 2008-2009 school year had withdrawn by August 2010.<sup>22</sup> A second study which focused solely on first-time post-secondary students but not returning students still found similar results. This study further differentiated two year associate's degree programs from four year bachelor's degree programs. The study found that for-profit students seeking an associate's degree were "somewhat more likely than community college students to attain an AA degree," but were less likely to continue and earn a bachelor's degree.<sup>23</sup> However, the study found that students in a four-year program at a for-profit schools "do not fare as well as four-year public and private non-profit institutions" and that students in for-profit programs are 12 to 19 percent less likely to receive their degree.<sup>24</sup>

Student Loan Debt and Repayment. The high for-profit school withdrawal rate is troublesome, but could be explained by other factors not related to the quality of the education. For example, many servicemembers may withdraw from a program due to a deployment or lengthy military exercise, and may re-enroll upon completion of that military duty. This would not have been captured in the statistical snapshot described above. What is troubling, however, is that most students who enroll in a for-profit college take out a loan,<sup>25</sup> and therefore many of the students who withdraw from for-profit schools are encumbered with a significant amount of student loan debt. This includes servicemembers using the GI Bill and Tuition Assistance programs. For-profit schools leave students with considerably higher debt than students at for-profit institutions and have “substantially higher default rates even when comparing students across school types with similar cumulative debt burdens.”<sup>26</sup> The Senate HELP Committee arrived at a similar conclusion, noting that for four-year public schools, 44.3 percent of students borrowed money to finance their education, compared to 93.4 percent of students at four-year for-profit schools.<sup>27</sup> The loan repayment rates for student loans, which can be an indicator of post-graduate employment and therefore program success, also are troubling. In 2010, four of the five for-profit schools that received the most Post-9/11 GI Bill funding have loan repayment rates of only 31-37 percent.<sup>28</sup> The most recent student loan default rates released by the Department of Education show a national default rate of 8.8%, but noteworthy is the fact that the default rate for students enrolled in for-profit institutions is 15%, while the same rate for public non-profit institutions is 7.2% and private non-profit institutions is 4.6%.<sup>29</sup> While there is no way to quantify the value of a degree to an employer, the higher default rates

for for-profit colleges could indicate an inability of the student to obtain employment or a sufficient salary to make the student loan payments.

90/10 rule. As noted above, current federal regulations require that for-profit schools receive no less than ten percent of their revenue from non-Title IV sources (federal loans and grants).<sup>30</sup> When initially promulgated as the 85/15 rule in 1992, the rule was intended to address many of the abuses already discussed in this article pertaining to for-profit educational institutions by requiring that these institutions receive at least 15% of their revenue from non-federal sources. The rationale behind the rule was to apply free market principles and only provide federal support to those schools with such quality programs that students not eligible for federal loans or grants would be willing to pay for them. The 85/15 rule was changed to the 90/10 rule in 1998. Because this rule only applies to Title IV funds, GI Bill and tuition assistance funds are not counted as federal funds for purposes of this calculation. That is why veterans and servicemembers have been aggressively courted by these institutions, and why it is fair to ask whether the 90/10 rule has inadvertently created a situation where, as the Senate HELP Committee noted, these for-profit companies are “incentivized to aggressively recruit and market to servicemembers.”<sup>31</sup> While we want to make sure this immense federal investment in servicemember and veteran education is not squandered, the program does not, and never has, restricted the use of the educational benefit to a certain type of degree or school. However, the government does have an interest in making sure that when a servicemember or veteran decides to use the benefit, the decision is made on an even playing field and in accordance with laws and regulations that apply to all commercial or contractual purchases.



One solution to this problem is better coordination among the various agencies that have a stake in this problem. A coordinated effort, focusing on prevention through education and outreaching to veterans, as well as a coordinated effort to enforce existing laws, will help this solve problem.

There are three government agencies that oversee the delivery of educational benefits to servicemembers and veterans, and there are three agencies that have jurisdiction and responsibility to enforce consumer protection laws. The Department of Veterans' Affairs Administers the GI Bill and thus directly pays a significant amount of money to for-profit schools on behalf of veterans and eligible family members. The VA also is responsible for the State Authorization Agencies that inspect every school annually. The Department of Education is responsible for the enforcement of the Higher Education Act, specifically for ensuring that institutions that receive Title IV funds are eligible to do so. And the Department of Defense operates the tuition assistance program, which pays federal funds directly to educational institutions on behalf of active duty servicemembers who take classes.

The Department of Justice enforces the nation's laws. The Consumer Protection Branch of the Civil Division has civil and criminal enforcement authority, and is responsible for enforcing all consumer protection laws. The Department of Justice has overlapping authority to enforce specific statutes that the Federal Trade Commission and the Consumer Financial Protection Bureau enforce.

The federal government has formed interagency working groups to address other significant problems that involve multiple federal agencies. For example, the President created the Financial Fraud Task Force in 2009 to address problems in the mortgage

industry. This task force involved representatives from the Department of Justice, the FTC, the Department of the Treasury, the CFPB, and others in order to look at a government-wide solution to this problem. The recent \$25 billion settlement, with a separate \$5 billion settlement for servicemembers, was the result of this task force's work. Such an effort could be repeated to address this problem.

There has been an interagency effort to do this since September 2011. Spearheaded by the Consumer Protection Branch, the Department of Justice began meeting with the various agencies noted above to explore possible solutions to this problem. An informal working group was created, and the group has met on three occasions. Membership includes all agencies noted above. However, since the creation of this working group, the President, on April 27, 2012, signed Executive Order 13607, *Establishing Principles of Excellence for Educational Institutions Serving Service Members, Veterans, Spouses, and Other Family Members*.<sup>32</sup> The purpose of the EO is to strengthen oversight, enforcement, and accountability within Department of Veterans Affairs (VA) and Department of Defense (DoD) administered educational benefits programs. The EO directs the Department of Education (DoE), DoD, and VA to establish Principles of Excellence (Principles) that will apply to educational institutions receiving funding from Federal military and veteran educational benefits programs, primarily the Post-9/11 GI Bill (administered by VA) and the Tuition Assistance program (administered by DoD). The Principles should ensure that educational institutions provide meaningful information about the financial cost and quality of educational institutions, prevent abusive and deceptive recruiting practices, and ensure that educational institutions provide high-quality academic and student support services to

student service members, veterans, and their families. The EO recognizes the need for a strong enforcement system through which to file complaints when institutions fail to follow the Principles, and directs the creation of a centralized complaint system for use by the DoD, VA, Department of Justice (DoJ), DoE, the Consumer Financial Protection Bureau (CFPB), and other relevant agencies. The EO further directs the institution of uniform procedures for referring potential matters for civil or criminal enforcement to DoJ and other relevant agencies. As part of the process to execute the Executive Order, this existing working group should be formalized by creating a charter and memorandum of agreement that lays out the group's purpose, mission, and authority. A regular meeting schedule should be established, and working groups should be established to address identified substantive issues. Once this group is recognized by the leadership of each involved agency, it will be able to more effectively coordinate and perform its mission.

Future Plans and Enforcement of the Executive Order. The recently signed Executive Order has brought oversight to the interagency process, and the aggressive timeline mandated by the Order will guarantee implementation of necessary reforms. Two of the most effective strategies for combating this problem are better consumer education and a more effective reporting system. The Executive Order mandates the development of comprehensive student outcome measures and streamlined tools to compare educational institutions using key measures of affordability and value. This effort, coupled with the attention drawn to this issue by the President's issuance of the Executive Order at a military installation, will emphasize the need for student veterans to devote more attention to their educational choices. The Executive Order also calls

for the creation of a centralized complaint system. The rest of this paper will address certain characteristics this system should have in order to make it a useful enforcement tool.

Reporting System. Currently there is no single reporting system for servicemembers or veterans who believe they are being defrauded by for-profit schools. While much attention has been given to alleged abuses by for-profit colleges by the press, the Congress, the executive branch<sup>33</sup>, and both the federal government and several states have initiated or joined lawsuits alleging fraud by for-profit colleges, there is no established complaint process for a veteran or other student who believes she was the victim of a fraud by a for-profit college. The VA website provides information and guidance to prospective students on choosing a college. The VA website provides a link to an eight page document called Factors to Consider When Choosing a School that warns veterans to be wary of schools that claim to be “military friendly” or “veteran friendly” by not taking those assertions at face value. While this document provides sage advice about choosing the right educational institution or program, it provides virtually no guidance on where to file a complaint. The document states in pertinent part:

“A lot of schools claim they are “Military Friendly” or “Veteran Friendly”. However, only a student veteran can decide whether that is true. Don’t let the pretty recruitment material or other advertising be your only reference. And under no circumstances should you ever feel pressured, forced, misled, or otherwise coerced into attending a school. If you feel you are, we, at VA, want to know about it. You can make VA aware of these concerns by contacting the State Approving Agency (SAA) in your state. The

State Approving Agencies are state employees who represent VA in these matters. You may find out how to contact your SAA by going to their website here.”

However, this language is found on page three of an eight page document, and does not highlight the ability to file a complaint, provides no information on filing a complaint with a federal agency (i.e., VA, Dept of Education, FTC, or Dept of Justice), and provides no guidance on what response, if any, to expect.

And, once a prospective complainant follows the link to the SAA website, there is no easy way to find where or how to file a complaint. In fact, the mission of the SAA as stated on their website might serve to deter a complainant, as the description states that SAAs “have become educational partners with institutions themselves.” And the SAA website provides links to the individual SAAs, which are not currently designed to be a clearing house for complaints. Nowhere is there a link to the Department of Education Inspector General’s office. And while the Consumer Financial Protection Bureau’s (CFPB) Office of Servicemember Affairs has done a tremendous job of bringing attention to this matter and proposing legislative changes to the 90/10 rule that would remove the financial incentive for for-profit colleges to target veterans and servicemembers for their federal benefits, there is still no obvious complaint mechanism on the CFPB website.

Thus, while the federal government that has expended considerable resources to investigate and document this problem, establish that a problem exists, there is no clearly established mechanism for a consumer to file a complaint about this well-documented problem.

What is needed to remedy this problem is a new reporting system that is easily accessible from multiple agency websites that provides students with an opportunity to file a complaint against an educational institution for certain specific violations.

The unique nature of this issue warrants a separate reporting system. While it might take more time to create a new reporting system, the long-term benefits of creating a new system outweigh the short-term benefits of using an existing system. The only existing system that could easily be modified for this purpose is the Federal Trade Commission Consumer Sentinel. While this system could be modified to accept complaints against for-profit colleges, that system is designed primarily as a database for consumer information that is accessible by law enforcement organizations. There is no complaint tracking mechanism, and no response is given to complainants. It would be difficult (though not impossible) to identify complaints against educational institutions and handle them differently.

The better course of action is to create a new reporting system that is designed solely for complaints against educational institutions, and that is managed by those agencies with direct responsibility for and involvement in the oversight process. This program could be designed to assign tracking numbers and provide feedback, and the information could be immediately accessible by the pertinent agencies. There is an added benefit of creating a new system: It sends a positive message to prospective student veterans and educational institutions that the federal government is taking its oversight responsibilities seriously. Effective publicity surrounding the creation of a new system also makes it more likely that the target audience will learn about the system and utilize it.

The following questions will have to be addressed regarding this new system:

- a. What is its purpose?
- b. Who will manage it?
- c. What information will it collect?
- d. How and where will complainants access the system?
- e. Who will have access to that information?
- f. What will be done with the information?
- g. Will complainants receive acknowledgement ?
- h. How, and to whom, will aggregate information be reported?
- i. Will any information be exempt from release under the Freedom of Information

Act? (Is this law enforcement information?)

**Purpose.** The purpose of the system is to serve as a centralized complaint process for students and prospective students who believe they were defrauded by an educational institution. A centralized complaint system will assist those agencies with enforcement responsibilities by providing them with information that can be used as the basis for further investigation (administrative, civil, or criminal) in order to determine if a regulation, policy, or law was violated. A centralized complaint system will also assist consumers by providing a readily identifiable complaint process as none currently exists. Finally, this enhanced process will entice the regulated educational institutions to redouble their efforts to comply with current laws, regulations, and policies.

**Management.** A challenging issue will be deciding who receives the reported information, and who acts on it. There are multiple federal agencies that have an interest in, and responsibility for, this information. These include the Veteran's

Administration, which is responsible for the delivery of federal benefits that are paid to the schools on behalf of students, and, importantly, for the training, management and oversight of the State Approving Authorities who inspect every school and institution, the Education Department, which is responsible for enforcing the Higher Education Act and ensuring that the educational institutions meet the criteria for receipt of federal funding, the Defense Department, which provides payment to educational institutions as part of the Tuition Assistance Program and therefore must ensure that the schools enter in to Memoranda of Agreements in order to receive those federal funds, the Consumer Financial Protection Bureau and Federal Trade Commission, which enforce consumer protection laws, to include those regulating student loans, and the Department of Justice, which enforces federal laws such as the False Claims Act and other anti-fraud statutes. All of these federal agencies would benefit from this information.

While the two most likely candidates for ownership of this system are the Department of Veteran's Affairs and The Department of Education, one agency must have responsibility for managing this system. The best candidate for this task is the Department of Veteran's Affairs. The VA administers the GI Bill, has contact with students and prospective students using that benefit, and has contact and oversight responsibility for the SAAs. Most student veterans can identify with the VA because that is the agency that administers their benefit, and are more likely to have contact with the VA as they utilize the benefit. For this reason, the VA should be the lead agency that administers this system. Responsibilities will include funding and managing the infrastructure of the system, to include any contractors hired to create and manage the system.



The VA should not have to manage the system alone. Rather, each agency with an interest in this process should form a committee, chaired by the VA, to create and manage this new reporting system. This committee should consist of one member from the VA, Department of Education, Federal Trade Commission, Department of Defense, Consumer Financial Protection Bureau, and Department of Justice. This committee will establish the parameters of the new system, and will propose policies and procedures to be followed. However, the committee will make recommendations to the designated VA official who will not be bound by committee recommendations.

What information will be collected? The reporting system should list specific categories of potential complaints against educational institutions. The system must also specify those complaints that are not proper subjects. Specific complaint categories that will be permitted include: aggressive marketing practices, such as repeated unsolicited phone calls or e-mail contact; failure to provide accurate information about school costs prior to enrollment; providing misleading information about acceptance of transfer credits; providing misleading information about program accreditation; charging for tuition or fees not previously disclosed; refusal to refund money if a student withdraws in a timely manner; providing false or incomplete information in conjunction with a private loan application; non-responsiveness by school administration to a properly filed complaint. This website should clearly state that all student complaints pertaining to an instructor, grade, or other academic matter must be addressed to the school and will not normally be considered by this system, unless, as noted above, a school fails to respond to a student complaint.<sup>34</sup> (Harkin documents

show that one of the most common complaints from students at for-profit schools was that the institution ignored or never acted on their complaints. FN)

Access points. Links to this complaint website should be found on the VA'S GI Bill website, the Department of Education's College Guide website, the VA and Ed IG websites, and each organization's FAQ page should be amended to include this information. Additionally, the Department of Defense should include a link to this website on their relevant websites, such as the DoD Voluntary Education Partnership Memorandum of Understanding website operated by the Undersecretary of Defense for Policy. The DoD should also mandate that service websites include this link, and mandate that installation websites also include the link for a specific time period as part of an educational outreach program. Links to this web reporting system should also be found on the Consumer Financial Protection Bureau's website. Other agencies should publicize and provide access as they deem appropriate. For example, the Department of Justice could announce the existence of this site and provide a link to the reporting system in its Justice Blog as well as on its home page. Finally, the FTC should have a link to this system on its web page as well as on the Consumer Sentinel site.

Who can access the information? Each agency with a representative on the reporting system committee will be able to access the system. Other federal agencies with an official need for the information will be provided access as necessary, and the committee will create a mechanism for tracking and responding to such requests.

What will be done with the information? Each involved agency may have different uses for the same piece of information. For example, if a student reports a fraudulent marketing practice, the Department of Education may initiate action to

withhold authorization for use of federal funds under Title IV of the Higher Education Act (FN—check authority), the VA may seek to withhold payment of GI Bill funds, the Department of Defense may decertify the school as eligible for tuition assistance funding, and the Department of Justice, Consumer Financial Protection Bureau, and the Federal Trade Commission may seek to initiate civil or criminal enforcement action. For this reason, all information collected by the reporting system should be disseminated to each agency. It would be impractical and unwieldy to screen the information before sending it to a specific agency. However, this is just a starting point. An accountability system must still be established to ensure that the collected information is acted upon. This will be the more challenging task from a resource perspective. As noted previously, each complaint will have to be tracked, and a response will be provided to each complainant. While this process may be automated during the intake process, at some point an investigator or other official will have to investigate the claim and respond to the complainant. Primary investigative responsibility should rest with the VA and the Department of Education. If those organizations do not have the capability of absorbing this additional responsibility, then each involved agency should detail an individual to an investigative team, or assist in the funding of contract investigators.

The VA and the Department of Education must conduct an initial investigation into every credible allegation, and provide an initial response to the complainant. The VA and DoE may refer cases to the DoJ, CFPB, or FTC for enforcement action as they deem necessary, and this information will also be reported to the complainant. Each complaint should be tracked online, and each investigator or case manager should update the status of a case on the online database. Every update should trigger an

automatic e-mail message to the complainant. The complainant can also contact the investigators via e-mail, but most of the process should be automated.

Reporting of information. The committee should prepare a quarterly report that will be submitted to each agency that details the number of complaints by category, the number found to be credible, the action taken on each complaint, and the number of complaints referred to the enforcement agencies. The VA and DoE will publicly report the number of complaints filed each quarter, the number of resolved and pending complaints, and the number referred to enforcement agencies for further action. The VA and DoE will also publicly report any enforcement action they have taken, such as de-certifying a school or withholding payment of federal funds. Finally, a determination will have to be made as to whether this information is exempt from release under the Freedom of Information Act as law enforcement information or pre-decisional information exempt from release as part of the deliberative process exemption.

Conclusion. The proliferation of for-profit colleges and questions about their recruiting tactics and program quality has caused concern among educators and legislators for quite some time. This issue has also been a concern within military and veteran communities because of the number of servicemembers and veterans who choose to use their tuition assistance or GI Bill benefits at for-profit colleges. The enactment of the Post 9/11 GI Bill has made this a more urgent problem for two reasons. First, a larger number of servicemembers and veterans are using these benefits at for-profit colleges. Second, as for-profit colleges seek to stay within the mandates of the 90/10 rule, which requires that they receive no less than ten percent of their revenue from federal Title IV funding sources, they are aggressively targeting

servicemembers and veterans eligible for GI Bill benefits because those benefits do not count as 'federal' benefits for purposes of the 90/10 calculation.

The interagency has come together to address this problem. The Executive Order signed on April 27, 2012 will bring more transparency to the school selection process by providing servicemembers and veterans with readily accessible information about college costs and outcomes. The creation of a centralized complaint reporting system will also increase enforcement and accountability in this area by providing a venue for complaints and forwarding information to enforcement agencies. Leaders in the military and veteran communities must take the lead in educating prospective students about existing resources that they should use to make informed college selection decisions. While a legislative change to the 90/10 rule would eliminate the financial incentive for proprietary educational institutions to target veterans and servicemembers, that solution would not entirely eliminate this problem because the generous GI Bill benefits would still be sought-after by those institutions. Thus, the reforms mandated by the Executive Order and recommended in this paper are still needed to bring accountability to this industry.

## Endnotes

<sup>1</sup> U.S. Congress, Senate, Committee on Health, Education, Labor, and Pensions, Full Committee Hearing, *For-Profit Schools: The Student Recruitment Experience*, 111<sup>th</sup> Congress, 2<sup>nd</sup> sess., August 4, 2010. This statement was found in a recruiter training manual used by Kaplan University. The training manual was an exhibit gathered by the committee, and is available on the HELP Committee website, <http://www.help.senate.gov/hearings/hearing/?id=19454102-5056-9502-5d44-e2aa8233ba5a>.

<sup>2</sup> Ibid.

<sup>3</sup> Post 9/11 Veterans Educational Assistance Act of 2008, Title 38, United States Code, Section 3301 et. seq.

<sup>4</sup> Ibid.

<sup>5</sup> Thomas Harnisch, “Changing Dynamics in State Oversight of For-Profit Colleges,” American Association of State Colleges and Universities, April, 2012.

<sup>6</sup> U.S. Congress, Senate, Committee on Health, Education, Labor, and Pensions, *Benefitting Whom? For-Profit Education Companies and the Growth of Military Educational Benefits*, 111<sup>th</sup> Cong., 2<sup>nd</sup> sess., December 8, 2010, 1.

<sup>7</sup> *Ibid.*, 16.

<sup>8</sup> Higher Education Act, Public Law 89-329, as amended by P.L. 105-244, 105<sup>th</sup> Cong., 2<sup>nd</sup> Sess., (January 27, 1998). Section 102 of the Higher Education Act includes the requirement that proprietary institutions receive at least 10% of their revenue from non-Title IV funds. This is referred to as the 90/10 rule. See also Rebecca R. Skinner, *Institutional Eligibility and the Higher Education Act: Legislative History of the 90/10 Rule and Its Current Status*, (Washington, DC: US Library of Congress, Congressional Research Service, January 19, 2005), 1.

<sup>9</sup> David J. Deming, Claudia Goldin, and Lawrence F. Katz, “The For-Profit Postsecondary School Sector: Nimble Critters or Agile Predators?” National Bureau of Economic Research (NBER), Working Paper 17710, <http://www.nber.org/papers/w17710>, December, 2011, 1.

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*

<sup>12</sup> US Senate, HELP Committee Report, 5.

<sup>13</sup> Deming, NBER Working Paper, 9.

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*

<sup>16</sup> Daniel Golden, “Kaplan Quest for Profits at Taxpayer Expense Ensnarers Veteran,” Bloomberg Businessweek, November 1, 2010.

<sup>17</sup> U.S. Government Accountability Office, *For-Profit Colleges: Undercover Testing Finds Colleges Encouraged Fraud and Engaged in Deceptive and Questionable Marketing Practices*, (Washington, DC: U.S. Government Accountability Office, November 30, 2010), 16.

<sup>18</sup> Bloomberg article, which stated that Kaplan University contributed \$1.54 billion in 2009 to its parent corporation, the Washington Post Company’s revenue of \$4.57 billion, which amounted to roughly one-third of revenue.

<sup>19</sup> U.S. Congress, Senate, Committee on Health, Education, Labor, and Pensions, Full Committee Hearing, *The Return on the Federal Investment in For-Profit Education: Debt Without a Diploma*, 111<sup>th</sup> Congress, 2<sup>nd</sup> sess., September 30, 2010. These statistics were taken from charts compiled by the committee and included as an appendix to their report. The referenced documents are available on the HELP Committee website, <http://www.help.senate.gov/hearings/hearing/?id=19454102-5056-9502-5d44-e2aa8233ba5a>.

<sup>20</sup> Ibid.

<sup>21</sup> Ibid.

<sup>22</sup> U.S. Congress, Senate, Committee on Health, Education, Labor, and Pensions, Full Committee Hearing, *The Return on the Federal Investment in For-Profit Education: Debt Without a Diploma*, 111<sup>th</sup> Congress, 2<sup>nd</sup> sess., September 30, 2010, 5.

<sup>23</sup> Deming, NBER Working Paper, 14.

<sup>24</sup> Ibid.

<sup>25</sup> HELP Committee Report, September 30, 2010, 7.

<sup>26</sup> Deming, NBER Working Paper, 15.

<sup>27</sup> HELP Committee Report, September 30, 2010, 7.

<sup>28</sup> HELP Committee Report, December 8, 2010, 13.

<sup>29</sup> U.S. Department of Education, Institutional Default Rate Comparison of FY 2007, 2008, and 2009 Cohort Default Rates, September 12, 2011, <http://www2.ed.gov/offices/OSFAP/defaultmanagement/instrates.html>.

<sup>30</sup> Higher Education Act, Public Law 89-329, as amended by P.L. 105-244, 105<sup>th</sup> Cong., 2<sup>nd</sup> Sess., (January 27, 1998), Section 102.

<sup>31</sup> HELP Committee, December 8, 2010, 8.

<sup>32</sup> U.S. Government Printing Office, Federal Register, Vol. 77, No. 85, May 2, 2012, 25861.

<sup>33</sup> There have been many articles written about the for-profit educational industry, in both newspapers and educational journals. As noted repeatedly in this article, the Senate has held hearings on this issue. The executive branch has called for Congress to amend the 90/10 rule to treat GI Bill benefits and other non-Title IV federal funds the same way as Title IV funds are treated. See, e.g., Hollister Petraeus, "For-Profit Colleges, Vulnerable GI's," The New York Times, September 21, 2011. Mrs. Petraeus is the Director of the Office of Servicemember Affairs, Consumer Financial Protection Bureau, and has been an outspoken advocate on behalf of servicemembers in seeking various reforms discussed in this paper.

<sup>34</sup> The Senate HELP Committee hearings compiled student complaints from several for-profit colleges and noted that one common complaint was unresponsiveness by the school to student complaints.

